IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SECOND DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

-

WRIT PETITION NO : 5506 of 2001

Between:

1. G.Kesava Rao (Died per LRs petitioners 2 to 6)

   S/o G.Narayana, aged about 70 years,

   R/o Moosapet, RR Dist, Hyderabad.

2. Smt. G.Vijaya laxmi W/o late G.Keshav Rao, aged 60 years,

3. G.Vidhyakar Rao S/o late G.Keshav Rao, aged 44 years,

4. G.Madhukar Rao S/o late G.Keshav Rao, aged 43 years,

5. G.Dinkar Rao S/o late G.Keshav Rao, aged 38 years,

6. G.Srikar Rao S/o late G.Keshav Rao, aged about 36 years

   (All are R/o H.No.11-5-213, Moosa pet, Hyderabad)

   (Petitioners 2 to 6 are brought on record as LRs as per Court order in WPMP No.5511 of 2003, dated 17. 04.2003.)

..... PETITIONER

AND

1. A.P.Transmission Corporation, rep. By its

   Director, Vidyuth Soudha, Hyderabad.

2. Asst. Accounts Officer, General, Revenue Circle

   A.P.Transco, Mint compound, Hyderabad.

3. Financial Advisor and Chief Controller of Accounts,

A.P.Transco, Vidyuth Soudha, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus or any other appropriate writ declaring that the action of the respondents in levying surcharge amount of Rs.2,66,985/- towards the electricity consumption bill on the petitioner for the month of February, 2001 is arbitrary and illegal and direct the respondents to forbear from recovering the said surcharge amount of the petitioner, and pass such other order or orders as this Hon'ble court may deem fit and proper.

Counsel for the Petitioner: Mr. Vedula Venkata Ramana

Counsel for the Respondentss: Mr. K.Ravinder Kumar, SC FOR AP TRANSCO

The Court Made the Following:

ORAL ORDER:

Though interlocutory matter is listed for hearing, at the request of the learned counsels appearing for the parties, the writ petition itself is taken up for consideration.

This writ petition is filed, questioning demand of Rs.2,66,985/-. It is the case of the petitioner that there were electricity consumption arrears to the tune of Rs.52,908.85 Ps by the end of July, 1989 and by order dated 5-8-1999 passed in proceedings LR.No.SAO (A)AII(Installment)/748/89, he was permitted to pay the said arrears in five installments. The petitioner has earlier filed Writ Petition No.11744 of 1989 and it is stated that pursuant to the interim order passed by this Court, some amount was paid towards arrears and subsequently, he paid balance of accumulated arrears on 15-9-1994. It is the case of the petitioner that inspite paying the entire electricity consumption arrears, the respondents have levied the amount of Rs.2,66,985/- on account of surcharge and there is threat of disconnection of power supply.

In the counter affidavit filed on behalf of the respondents, it is stated that the monthly consumption bills were not correctly issued by applying relevant multiplier factor for the months of May, 1985, June, 1985, August 1987 to April,

1988, July, 1988 and October, 1988; as such, supplementary bill was issued to the petitioner for payment of Rs.52,908.85 Ps. It is stated in the counter affidavit that out of the said amount, the petitioner has already paid an amount of Rs.47,982/- and still an amount of Rs.5,734/- is due from the petitioner towards arrears. Further it is stated that subsequently there was an inspection in the premises of the petitioner on 29-4-1999 and it was noticed that the performance of the electricity meter was sluggish in all three phases; as such, meter was referred to MRT testing and as the meter was found defective in functioning, proceedings were initiated for back billing and orders are passed determining he value of energy which was not recorded at Rs.83,073/-.

Sofar as balance amount payable on account of earlier electricity consumption arrears for the period from May, 1985 to October, 1988 is concerned, it is the case of the respondents that, out of total amount of Rs.52,908.85 Ps., the petitioner has paid Rs.47, 982/- and further amount of Rs.5,734/- is due from the petitioner. Where as it is the case of the petitioner that even the said amount of Rs.5,734/- is already paid and he is having proof of the said payment. In that view of the matter, the respondents are directed to verify the same with regard to the said amount and take steps accordingly. With regard to the final order alleged to have been passed, determining the value of energy on account of defective functioning of the meter, it is the case of the petitioner that the said final order dated 29-11-1999 is not served on him. Against the said final order, there is remedy of appeal as per the terms and conditions of supply. In that view of the matter, I dispose of the Writ petition, directing the respondents to serve a copy of the final order dated 29-11-1999 on the petitioner and not to take steps for disconnection of power supply, for a period of eight weeks from today. However, it is open for the respondents to take steps to enforce the order dated 29-11-1999 after expiry of eight weeks, subject to any orders to be passed by the appellate authority.

Subject to the above direction, the Writ Petition is disposed of. No costs.

ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

Copy to:

1. The Directior, A.P.Transmission Corporation,

   Vidyuth Soudha, Hyderabad.

2. Asst. Accounts Officer, General, Revenue Circle

   A.P.Transco, Mint compound, Hyderabad.

3. Financial Advisor and Chief Controller of Accounts,

   A.P.Transco, Vidyuth Soudha, Hyderabad.

4. 2 C.D. copies

Note:

Issue copy in one week.

B/O

YCR